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TO:	Mail Stop 8	JUN 17 2009	REPORT ON THE
	Director of the U.S. Patent and Trademark Office	RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE	FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
	P.O. Box 1450		
	Alexandria, VA 22313-1450		

ADR

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☒ Trademarks:

SOLICITOR

DOCKET NO.	DATE FILED 6/17/2009	U.S. DISTRICT COURT Northern District of California	JUN 26 2009
PLAINTIFF APPLE INC.		DEFENDANT GUARDIAN MEDIA TECHNOLOGIES, LTD.	
PATENT OR TRADEMARK NO.		DATE OF PATENT OR TRADEMARK	
1 4,930,158		5/29/1990	
2 4,930,160		5/29/1990	
3			
4			
5			

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input checked="" type="checkbox"/> Amendment	<input checked="" type="checkbox"/> Answer	<input checked="" type="checkbox"/> Cross Bill	<input checked="" type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK			
1					
2					
3					
4					
5					

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK RICHARD W. WIEKING	(BY) DEPUTY CLERK GLORIA ACEVEDO	DATE 6-20-05
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

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ORIGINAL FILED

JUN 17 2009

Richard W. Waking
Clerk, U. S. District Court
Northern District of California
San Jose

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Attorneys for Plaintiff
Apple Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC.,

Plaintiff,

v.

GUARDIAN MEDIA TECHNOLOGIES,
LTD.,

Defendant.

Case No.

COMPLAINT FOR DECLARATORY
JUDGMENT

DEMAND FOR JURY TRIAL

Plaintiff Apple Inc. ("Apple") brings this action for declaratory judgment against
Defendant Guardian Media Technologies, Ltd. ("Guardian") and alleges as follows:

PARTIES

1. Apple is a corporation organized and existing under the laws of the State of
California and has its principal place of business in Cupertino, California. Apple is engaged in
the business of designing, developing, manufacturing and selling computers, software, portable
music and video players, mobile phones, and related services.

2. Apple is informed and believes that defendant Guardian is a Texas limited
partnership with a mailing address at 3801 N. Capital of Texas Highway, E240-303, Austin,
Texas 78746. Guardian may be served via its registered agent for service of process, CT

COMPLAINT FOR DECLARATORY
JUDGMENT

Corporation System, 1021 Main Street, Suite 1150, Houston, Texas 77002.

JURISDICTIONAL STATEMENT

Jurisdiction

3. This is a declaratory judgment action for patent non-infringement arising under the patent laws of the United States, Title 35, United States Code, Section 100 *et seq.* This Court has subject matter jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

4. An actual, substantial and continuing justiciable controversy exists between Apple and Guardian based on Guardian having previously filed a complaint for patent infringement against Apple and other defendants in the action titled *Guardian Media Technologies, Ltd. v. Coby Electronics, Corp., et al.*, United States District Court for the Central District of California, Case No. CV-08-8439 R (RCx) (the "Coby Action"). In the Coby Action, Guardian alleged that Apple infringed U.S. Patent Nos. 4,930,158 (the "'158 Patent") and 4,930,160 (the "'160 Patent"). On June 15, 2009, at the hearing on an Order to Show Cause as to why Guardian should not be required to file separate lawsuits as to each individual, unrelated defendant, Judge Manuel Real dismissed without prejudice Guardian's complaint against all defendants who had not yet answered, including Apple.

5. Judge Manuel Real dismissed without prejudice Guardian's complaint against Apple. Apple requires a declaration by this Court of its rights with respect to Guardian's allegations that Apple infringed the '158 and '160 Patents. A copy of the '158 Patent is attached hereto as Exhibit A, and a copy of the '160 Patent is attached hereto as Exhibit B.

6. This Court has personal jurisdiction over Guardian based on Guardian's presence in California and continuous and systematic contacts with California. On information and belief, Guardian has been pursuing licensing activities and enforcement activities in California and, specifically, in the Northern District of California, since at least 2003, when Guardian acquired the '158 and '160 Patents. This Court also has jurisdiction over Guardian because Guardian has submitted to the personal jurisdiction of California courts by filing multiple lawsuits in the Central and Southern Districts of California, including the Coby Action against Apple and the

1 following actions currently pending in these courts: *Guardian Media Technologies Ltd. v.*
2 *Toshiba America Consumer Prods., LLC*, United States District Court for the Central District of
3 California, Case No. 09-cv-52-R; *Guardian Media Technologies Ltd. v. Philips Elec. North*
4 *America Corp. et al.*, United States District Court for the Southern District of California, Case
5 No. 08-cv-1859-IEG.

6 **Venue**

7 7. Venue is proper within this judicial district pursuant to 28 U.S.C. §§ 1391(b) and
8 (c).

9 **Intradistrict Assignment**

10 8. This action arises in Santa Clara County because a substantial part of the events
11 giving rise to the claim occurred in Santa Clara County. Pursuant to Civil Local Rule 3-2, the
12 action is properly assigned to the San Jose Division of the Northern District of California.

13 **FIRST CLAIM FOR RELIEF**

14 **(Declaration of Non-Infringement of the '158 Patent)**

15 9. Apple repeats and re-alleges each and every allegation of paragraphs 1 through 7
16 above, and incorporates them by reference as if fully set forth herein.

17 10. Based on information and belief, Guardian claims to be the owner of all right, title
18 and interest in the '158 Patent, including the right to enforce the '158 Patent against alleged
19 infringers.

20 11. Guardian previously filed a complaint in the Coby Action against Apple alleging
21 that Apple directly infringed and/or induced infringement and/or contributed to the infringement
22 of one or more claims of the '158 Patent and that such alleged infringement was willful.

23 12. Apple has not directly infringed, induced infringement, or contributed to the
24 infringement of any valid claims of the '158 Patent.

25 13. An actual case or controversy exists between Apple and Guardian based on
26 Guardian's previously-filed complaint against Apple alleging that Apple infringed the '158
27 Patent.

28 14. Apple has been injured and damaged by Guardian's accusations of infringement.

1 15. Declaratory relief is appropriate and necessary to establish that Apple has not
2 directly or indirectly infringed any valid claim of the '158 Patent.

3 16. Pursuant to 28 U.S.C. §§ 2201, et seq., Apple requests a declaratory judgment that
4 Apple does not infringe any valid claim of the '158 Patent.

5 **SECOND CLAIM FOR RELIEF**

6 **(Declaration of Non-Infringement of the '160 Patent)**

7 17. Apple repeats and re-alleges each and every allegation of paragraphs 1 through 7
8 above, and incorporates them by reference as if fully set forth herein.

9 18. Based on information and belief, Guardian claims to be the owner of all right, title
10 and interest in the '160 Patent, including the right to enforce the '160 Patent against alleged
11 infringers.

12 19. Guardian previously filed a complaint in the Coby Action against Apple alleging
13 that Apple directly infringed and/or induced infringement and/or contributed to the infringement
14 of one or more claims of the '160 Patent and that such alleged infringement was willful.

15 20. Apple has not directly infringed, induced infringement, or contributed to the
16 infringement of any valid claims of the '160 Patent.

17 21. An actual case or controversy exists between Apple and Guardian based on
18 Guardian's previously-filed complaint against Apple alleging that Apple infringed the '160
19 Patent.

20 22. Apple has been injured and damaged by Guardian's accusations of infringement.

21 23. Declaratory relief is appropriate and necessary to establish that Apple has not
22 directly or indirectly infringed any valid claim of the '160 Patent.

23 24. Pursuant to 28 U.S.C. §§ 2201, et seq., Apple requests a declaratory judgment that
24 Apple does not infringe any valid claim of the '160 Patent.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff Apple hereby requests that this Court:

27 (a) Render judgment declaring that Apple has not infringed, and is not infringing, any
28 valid claim of the '158 Patent, either directly or indirectly, and either literally or under the

1 doctrine of equivalents;

2 (b) Render judgment declaring that Apple has not infringed, and is not infringing, any
3 valid claim of the '160 Patent, either directly or indirectly, and either literally or under the
4 doctrine of equivalents;

5 (c) Award Apple its fees and costs, including attorney's fees, pursuant to 35 U.S.C. §
6 285; and

7 (d) Award Apple such other and further relief as the Court deems proper.

8
9 Dated: June 17, 2009

GEORGE A. RILEY
LUANN L. SIMMONS
O'MELVENY & MYERS LLP

10
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12 By: 

Luann L. Simmons
Attorneys for Plaintiff
Apple Inc.

JURY DEMAND

Apple respectfully requests a jury trial on all issues triable thereby.

Dated: June 17, 2009

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By: 

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SF1:768751.3